

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
CENTRAL DIVISION

CIVIL ACTION NO04-cv-40054

GERALD F. RICHARDS,  
Plaintiff

**VS.**

**SOUTHBIDGE POWER &  
THERMAL, LLC.,  
Defendant**

**SOUTHBRIDGE POWER & THERMAL, LLC'S  
FED. R. CIV. P. 26(a)(1) INITIAL DISCLOSURES**

Pursuant to this Court's Scheduling Order and Fed. R. Civ. P. 26(a)(1), Southbridge Power & Thermal, LLC ("Southbridge") makes the following initial disclosures. Southbridge reserves its right to amend or supplement the following disclosures as investigation and discovery continue throughout the course of the litigation.

(A) Witnesses

Southbridge identifies the following individuals likely to have discoverable information regarding plaintiff's claim and/or Southbridge's defenses and provides the last known contact information for the individuals. The Southbridge and Nations Energy witnesses can be contacted through Southbridge's counsel of record.

1. Thomas Shepard, NationsEnergy, 150 South Wacker Drive, Suite 2950, Chicago, Illinois 60606, telephone: 312/327-1100;
2. Terry Waldron, Waldron Engineering, Inc., 32 Depot Square, Hampton, NH 03842, telephone: 603/926-8220;
3. John D. Sweet, Waldron Engineering, Inc., 32 Depot Square, Hampton, NH 03842, telephone: 603/926-8220;

4. James E. Templeton, Aradia Management, LLC, 1008 Bullet Hill Rd., P.O. Box 551, Southbury, CT 06488, telephone: 203/264-2811;
5. Jeremy P. Smith, Waldron Engineering, Inc., 32 Depot Square, Hampton, NH 03842, telephone: 603/926-8220;
6. David Forbes, Abington Constructors, Inc. 195 West Rd., Portsmouth, NH 03801, 603/ 436-5800.

(B) Documents

Subject to valid objections, which will be made in response to formal document discovery, all documents in the possession, custody or control of Southbridge that are relevant to claims or defenses in dispute are described below and will be exchanged with Plaintiff upon a mutually agreeable date and pursuant to protective order where appropriate. The documents are generally categorized as follows:

1. Contracts, agreements, work orders, invoices and other correspondence between Southbridge and Waldron-Abington, LLC relating to the project (Contract between Waldron-Abington, LLC and Southbridge Power and Thermal, LLC is attached hereto as Exhibit 1);
2. Progress, safety, incident and other reports provided to Southbridge relating to the project;
3. Documents provided to Southbridge relating to the incident or accident alleged by the plaintiff on or about January 23, 2001.

(C) Damages

Not applicable.

(D) Insurance

Insurance policy no. 4731-00-000404 from Wausau is attached as Ex. 2.

COUNSEL FOR SOUTHBRIDGE POWER  
& THERMAL, LLC

By 

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By 

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130 East Randolph Drive  
Chicago, IL 60601  
(312) 861-8075

CERTIFICATE OF SERVICE

I, Patrick J. Markey, Esq., hereby certify that on this 25<sup>th</sup> day of October, 2004, I served a copy of the above upon the parties in the action by facsimile and by mailing, postage prepaid, to counsel, Charlotte E. Glinka, Esq., Keches & Mallen, P.C., 122 Dean Street, Taunton, MA 02780.

Subscribed under the penalties of perjury.

  
Patrick J. Markey, Esq.

## SOUTHBRIDGE POWER AND THERMAL PROJECT

THIS AGREEMENT is made and entered into as of by and between Waldron - Abington, LLC, a limited liability company, with its principal office at 32 Depot Square, Hampton, NH (hereinafter the "Contractor"), and Southbridge Power and Thermal, L. L. C., a Delaware limited liability company, with its principal office at 200 N. LaSalle Street, Chicago, Illinois (hereinafter the "Owner").

### WITNESSETH

WHEREAS, the Owner wishes to construct, own, and operate a natural gas engine/fire tube boiler cogeneration plant as more fully described in *Exhibit F* hereto (Minimum Technical Requirements/Turnkey Scope Document), on a site within the property limits of the Southbridge Business Center in Southbridge, Massachusetts; and

WHEREAS, the Owner desires the Contractor to perform engineering and design services, procurement and support services, construction services, commissioning, startup and testing and operator training services to make such facility fully operational; and

WHEREAS, all design and engineering services as may be included in the Scope of Work under this Agreement, the performance of which may be considered as the practice of engineering, shall be subcontracted by Contractor to a firm which is licensed to, and regularly practices engineering, including design of plants such as those contemplated by this Agreement; and

WHEREAS, the Owner desires that the Contractor, itself or through its Subcontractors, provide design, engineering, procurement, construction, startup, operating training services, and performance testing for the proposed Facility on a lump sum turnkey price and the Contractor is willing to do so and is willing to guarantee the timely completion, proper installation and performance of such facility, all on the terms and conditions hereinafter set forth,

NOW THEREFORE, in consideration of the mutual promises and agreements of the parties herein expressed, as well as other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties, intending to be legally bound hereby, agree as follows:

### ARTICLE I

#### DEFINITIONS

The following terms shall have the meanings specified in this Article 1 when capitalized and used in the Agreement. The meanings specified are applicable to both the singular and the plural.